

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

Roy Douville,

Plaintiff,

v.

Lexington Law Firm,

Defendant.

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: Civil Action No.: 1:14-cv-245
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: **COMPLAINT**
: **JURY TRIAL DEMANDED**
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For this Complaint, the Plaintiff, Roy Douville, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Roy Douville ("Plaintiff"), is an adult individual residing in Waynesville, North Carolina, and is a "person" as defined by 47 U.S.C. § 153(39).
5. The Defendant, Lexington Law Firm (hereafter "Lexington"), is a company with an address of 360 North Cutler Drive, Salt Lake City, Utah 84054, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

6. In or around March of 2014, Lexington began calling Plaintiff's cellular telephone in an attempt to solicit to Plaintiff its services.

7. At all times referenced herein, Lexington placed calls to Plaintiff's cellular telephone by using an automated telephone dialer system ("ATDS") and/or by using an artificial or prerecorded voice.

8. When Plaintiff answered the calls from Lexington, he heard a pre-recorded voice directing Plaintiff to hold for the next available representative.

9. Plaintiff has no business relations with Lexington and never requested by an agreement or otherwise that he be contacted.

10. Plaintiff never provided his cellular telephone number to Lexington and never provided his consent to Lexington to be contacted on his cellular telephone.

COUNT I

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT – 47 U.S.C. § 227, et seq.

11. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. Without prior consent Lexington contacted Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

13. The telephone number called by Lexington was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

14. The calls from Lexington to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Lexington’s telephone system has the capacity to store numbers in a random and sequential manner.

16. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: September 15, 2014

Respectfully submitted,

By: /s/ Ruth M. Allen

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